



STATE BOARD OF EQUALIZATION

1000 N STREET, SACRAMENTO, CALIFORNIA
P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808

(916) 445-4982

July 27, 1982

TO COUNTY ASSESSORS:

GEORGE R. REILLY
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Second District, San Diego
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Third District, San Rafael
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KENNETH CORY
Controller, Sacramento
DOUGLAS D. BELL
Executive Secretary
No. 82/90

**TAXABLE STATUS OF PROPERTY OWNED BY BANKS
AND FINANCIAL CORPORATIONS**

In assessors' letters 82/69 and 82/87, we informed you that personal property which is owned by an insurance company but used for non-insurance business activities is subject to property tax assessment (Massachusetts Mutual Life Insurance Company v. City and County of San Francisco, (129 Cal. App. 3d 876). Several assessors' offices have asked whether the Massachusetts ruling is applicable to personal property owned by banks and financial corporations but used for non-financial activities.

In the Massachusetts case, the court held that the gross premiums tax is measured only by insurance business, so the in lieu provisions are not applicable to business activities which are not related to insurance transactions. The court stated:

"Since the 'in lieu' exemption is granted in return for imposition of a tax on gross, rather than net, receipts, and is functionally related to the tax which insurers must pay on gross premiums paid to the company for insurance benefits...in our view it would be inappropriate to allow a tax exemption for property owned by an insurer but not used to produce taxable gross premiums. If it were otherwise, an insurer could entirely escape taxation of all revenue-producing property not used to generate 'gross premiums.' Under such circumstances, as in the present case, the quid pro quo for the 'in lieu' exemption no longer exists; the insurer retains the privilege of doing business, and derives profits, but pays the state nothing for property owned and used in deriving a conceivably substantial source of its income."

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In the case of banks and financial corporations, all corporate net income is subject to special franchise tax rates, regardless of whether the income is derived from financial or nonfinancial activities. Thus, the circumstances which resulted in the Massachusetts ruling do not exist in the case of banks and financial corporations. Personal property which is owned by a bank or financial corporation continues to be exempt from ad valorem taxation, regardless of the use of the property.

Sincerely,

A handwritten signature in cursive script, appearing to read "Verne Walton".

Verne Walton, Chief
Assessment Standards Division

VW:bjb
AL-05-1197A